

# BATTLE OF ATTORNEYS

(From Sunday's Advertiser)

The examination of Magoon by Kinney yesterday developed into a battle royal between the attorneys. Magoon had an unusual opportunity to study the gentle art of cross-examination from the novel point of view of the witness chair. Kinney handled him without gloves, and several times drove him into tight corners, particularly when in following up Magoon's statement that he had never advised Sam Parker on ditch matters Magoon had said that he did not remember whether he had ever sent Parker a bill for \$1000 in that connection or not, and again when Magoon was driven into a theory of one of his injunctions totally different from that of Lightfoot who helped him prepare it, and who testified on the same point last week.

Kinney began on the point that Magoon had neglected to consult the mother before seizing the reins as "next friend" for Jack Low; Magoon having said that this would be useless as the mother was biased.

"Did you consider the propriety of setting up in your application that the mother had been set aside for bias?" asked Kinney.

"I did not consider it necessary," was the answer.

"Did you have any talk with Judge Gear, when you obtained the ex parte order about the position of the mother?"

"None except that the mother was named in the petition."

"Did you not recognize that the mother had the first right to act in such a matter?" asked Kinney.

"There is no first right about it," said Magoon. "The court would recognize anybody who had a right to act, whether it was the mother or a first or fourth cousin or an entire stranger. The interests of the minor are what the court looks at."

Magoon said he recognized that the courts pay attention to the wishes of a father or mother in such a matter. There was no reason for putting in his petition the reasons why the mother had not been consulted.

"Was there any motive to conceal the matter from her?"

"None whatever. It would have been impossible for her to be named in the petition and served with process."

"Aye, but that was after you had the appointment of Low safe in your hands," retorted Kinney.

Magoon further denied that he had anticipated that Mrs. Knight might protest or show to the court Jack Low's connection with the Ditch Company. He could not explain his motive in putting in the petition the allegation that Jack Low and John Parker had been reared together as brothers.

Magoon knew that Jack Low had some interest in the Hamakua Ditch Co. McCrosson was also interested, but while McCrosson may have talked from the standpoint of the Ditch Company, Low had no interests save those of the minor.

Kinney asked Magoon if he had seen the letters between Hind and McCrosson wherein Hind was asked, as an officer of the Hamakua Ditch Co., to put up for the expenses of the suit to remove Carter.

Magoon said he had seen copies of them, but did not have them in his possession.

Kinney gave him notice to produce the copies.

As regards Sam Parker's interest in the Ditch Companies, Magoon said he had advanced money to the Hawaii Ditch Company, but when the two corporations were formed Sam retained an interest in the Kohala one but not in the Hamakua.

"What was the reason for severing the two companies?" asked Kinney.

"I don't know. I did not give Parker any advice in ditch matters," said Magoon.

"Did you not send a bill to Samuel Parker for \$1000 for advice concerning the ditch matter?"

"I don't know."

"Oh my," said Kinney. "Do you get thousand dollar fees so often that you can not remember one?"

Magoon said he could not remember.

"If you have such a bill, all right," he added. "There may have been one."

Returning to Magoon's claim that the mother would have been consulted when a new guardian was appointed, Kinney reminded the witness that his "guardian ad litem" had applied next day to sell the minor's real estate to the value of \$124,000.

Magoon claimed that all he had done, even in the suits in which he represented Samuel Parker had been done in the minor's interest. Nothing that Kinney could suggest had been intended to embarrass Carter in holding possession as guardian. Sending up Eben Low with instructions to take possession, giving him orders to try to run the ranch any way, sending the Metropolitan Meat Co. orders to pay no money to Carter; posting notices on the ranch stopping payments on Hawaii, applying for a license to sell Pauuhau, none of these was calculated to injure the interests of the minor or to hinder Carter as her guardian. Even the temporary injunction by which it was sought to enjoin Carter from entering on the ranch at all would have had this effect, because as Magoon triumphantly pointed out it was addressed to Carter in his individual capacity, and not as guardian.

This claim opened up a long inquiry. Magoon's idea of the effect of such an injunction was that it would leave Eben Low and the guardian with equal powers on the ranch. It would not result in Low obtaining complete possession.

"If it had fooled the court and counsel into regarding it as keeping Carter out of the management altogether, you would have been so much the better off," asked Kinney.

"It couldn't fool anyone, for its language is too plain," said Magoon.

"It fooled Lightfoot, didn't it?" retorted Kinney, and thereupon read the testimony of Lightfoot to the effect that it had been the next step to put Low in possession after the de-

mand on the ranch, and that the main object of the injunction was to tie Carter's hands so that Low could walk into the management unhindered.

"I don't know what Lightfoot may have thought of it," said Magoon finally. "I had my own ideas and I am positive the injunction was not directed against Carter as guardian."

The cross-examination was still in progress when the court adjourned till Monday.

## DR. AIKEN IS DEAD

MAUI, October 27.—Thursday afternoon, the 26th, Dr. Perley J. Aiken of Makawao died of pleurisy and a complication of diseases after a long illness.

Dr. Aiken was the son of the late Rev. Wm. Aiken of Knoxville, Tennessee, and was born at McConellsville, Ohio, Sept. 5th, 1841. He was educated at Washington College, Pennsylvania, which he left before graduation with other college boys to enter the northern army as a member of the Anderson Cavalry. Becoming invalided home, he left his company, but upon recovery of health re-entered the army as a member of the signal corps in which he served as sergeant in charge of a station at Georgetown Heights until the end of the rebellion. He then entered Jefferson Medical College of Philadelphia, from which he graduated and began the practice of medicine in Cleveland, Tennessee. From there he went to Virginia City, Nevada, and then to Woodland, Cal. After serving as medical director of the Soldiers' Home at Yountville, Cal., for several years, he came to the islands in 1894 as government physician at Paia. About ten years ago he was compelled, owing to failing health, to give up his profession and since that time has been an invalid.

Dr. Aiken was married to Julia Orilla Smythe of Newark, Ohio, Oct. 1, 1867. Besides his wife he leaves six children: Albert C. and Perley B. Aiken of San Francisco, W. O. Aiken, Mrs. F. W. Hardy, Dr. G. S. Aiken and Irene E. Aiken, all residing in Makawao. Dr. Aiken was an eminent commander of the Knights Templars of Woodland, 32nd degree, and will be buried according to masonic rites at Makawao, on Saturday afternoon, Rev. Wm. Ault of Wailuku to officiate. A special train will be run from Wailuku to Paia to convey the remains to and fro.

DR. SPINOLA DEAD.

On Monday, Dr. Spinola died at Paia Plantation hospital, where he has been for a short time under the care of Dr. W. F. McConkey for malignant tumor of the throat.

Dr. Spinola was born in the Azores some 65 or 70 years ago and was a regular graduate of a Portuguese medical school. He was a resident of Honolulu for ten years before recently coming to Paia, Maui. The funeral took place at Paia on Tuesday, Father Charles of Makawao officiating.

THE DOUSE CASE.

On Monday, a change of venire to Honolulu in the Douse case was granted by Circuit Judge Kepoiki. Among reasons urged by Judge Hume, says to grant this change were, that the Honolulu doctors would charge \$600 to come to Maui as witnesses, that Lahaina Japanese might make trouble if dissatisfied in any way with the legal procedure, and that it was probable that a jury could not be obtained at Lahaina.

Though the trial jurors were dismissed, Judge Kepoiki has been hearing civil matters during the week.

NEW TENNIS CLUB.

Tuesday evening, a meeting was held at the residence of Mr. and Mrs. W. I. Lowell of Paia for the purpose of organizing a tennis club. There were quite a number present and 23 ladies and gentlemen became charter members of the new association which is to be known as the "Racquet Club."

The members of the club are limited to the employees of the Maui Agricultural Co. and their families. Mr. and Mrs. H. A. Baldwin were elected honorary members. The following officers were chosen: D. C. Lindsay, president; Miss Cunningham, secretary; W. A. Engle, treasurer, and Wm. Whitesides, manager of the court.

NOTES.

The Japanese who are taking the coal off the wrecked Spartan now are obliged to dive beneath the water and collect it in handbills. The water is up to their necks.

The evening to be devoted to the sale of fancy articles by the Makawao Ladies Aid Society has been postponed till December. The Ladies' Guild of Wailuku will hold their bazaar in the K. of P. hall, the evening of November 18.

Manager D. C. Lindsay of Paia is in Honolulu for a ten-day visit.

On Monday Mr. and Mrs. W. A. Baldwin of Haku departed for a several months' visit to the mainland.

On Thursday the 3-masted schooner Allen A. departed from Kahului for Tacoma.

Weather—Cool and pleasant.

## INFLAMMATORY RHEUMATISM.

Anyone who has ever experienced the excruciating and almost unbearable pains incident to inflammatory rheumatism, will be pleased to know that prompt relief may be had by applying Chamberlain's Pain Balm. Mr. D. Snyder, of Roseville, Ontario, Canada, says: "I have been troubled with inflammatory rheumatism for the past two years and unable to sleep at night. I have taken many remedies but must say Chamberlain's Pain Balm is the best I have ever tried." For sale by all Dealers and Druggists. Benson, Smith & Co., Ltd., Agents for Hawaii.

## MRS. ABNER M'KINLEY WEDES.

PITTSBURGH, Pa., Oct. 11.—Mrs. C. G. Baer, better known by her stage name, Mabel McKinley, is authority for the announcement that her mother, Mrs. Abner McKinley, was married at Baltimore tonight to Captain John D. Allen, of Tacoma, Fla. Captain Allen is in the United States navy and his bride is the widow of the late President McKinley's brother.

# SUGAR

SUGAR.—Eastern and Foreign Markets: We called attention in our previous circular to the probability of a still further reduction in the prices of raws in New York. Our expectations in this regard were soon realized, and the basis gradually declined, rallying, however, to 3 1/2-5c. October 6, since which time a quiet and fairly steady market has been in evidence.

As regards the prospects for the future, there are no influences at present observable which would justify the belief even of the maintenance of existing quotations. Taking into consideration the likely sources of supply for the balance of the year and the probable demand for the refined product at a time when domestic beets must be reckoned with as a feature in the situation, it is not surprising that in well-informed quarters the opinion prevails that a substantial surplus of raws in different hands will be observable at the close of the current year. The realization of the fact on the part of refiners, it is not unlikely to suppose, will serve to intensify their reluctance to enter the market to any extent unless holders are readily induced to grant liberal concessions in price as an inducement to refiners to consummate transactions.

Refiners latterly have been busy with direct receipts, principally with Java sugars, two cargoes in port having recently been disposed of on terms which are thought to be practically the equivalent of 3 1/2-5c. for 96-degree test. Quotations for London beets have been fairly steady during the period under review, and while evincing a slight improvement for the time being, show a downward tendency, but the speculative features which dominated the market formerly no longer appear to exert any pronounced influence on the situation at this juncture. An evidence of this fact is shown by the apathy displayed on the news of another important failure of a sugar operator in Paris during September, while it is announced that the October liquidation there has passed off without further difficulties. The new crop is now being harvested and special interest centers in the estimates as to the output. Mr. F. O. Light of Magdeburg has cabled under date of October 13 that the weather is unfavorable for crop work, but estimating a production of 2,175,000 tons for Germany, 1,420,000 tons for Austria, 950,000 tons for France and a total production of 6,500,000 tons sugar for all Europe, against the 1904-5 crop of 4,706,900 tons, showing an increase of 1,843,100 tons. It is interesting to compare Mr. Licht's previous first estimates of the European beet crops by tons with the final output, and we append some figures in connection therewith:

	Over estimated	Under estimated
Final output	4,131,100	4,706,900
Final output	24,968	5,874,968
Final output	288,743	5,501,227
Final output	329,478	6,700,478
Final output	320,080	5,900,080
Final output	218,048	5,518,048

October 12, 1905..... 6,500,000  
October 15, 1904..... 5,120,000  
October 15, 1903..... 5,850,000  
October 15, 1902..... 6,850,000  
October 15, 1901..... 6,420,000  
October 21, 1900..... 5,200,000  
October 21, 1899..... 4,300,000

Refined in New York has been generally dull throughout the past month, and a quiet, featureless market is observable according to latest mail advices from New York under date October 13.

Latest Statistical Position: Willett & Gray report U. S. four ports in all hands estimated October 4, 214,007 tons, against 151,020 tons, same date last year. Six ports Cuba estimated October 3, 163,000 tons, against 197 tons corresponding period previous year. United Kingdom, Aug. 31 (bonded stock), 102,000 tons, against 128,000 tons same date in 1904. Total stocks in all the principal countries by cable October 5 at latest uneven dates, 1,016,007 tons, against 1,214,217 tons—decrease from last year, 198,210 tons.

COFFEE.—Stock of Hawaiians in first hands today is 1643 bags. This market has been very dull since September 1, the unusually heavy buying in August—fully two months' business was done—having put dealers generally in possession of supplies beyond their immediate requirements. The downward course of the New York market has also operated against a freer movement, the net decline there in Brazil being 1-2c. per lb. to this writing.

Of the deliveries noted above, some 900 bags represent coffees either sold to arrive or permanently withdrawn from market, so that old stocks have really been consumed to the extent of about 500 bags since August 30.

Referring to the following quotations, we wish to say that the outside figures apply to old crop only:

The market closes dull and heavy at—12 1/2-2c. to 13 1/2-2c. for fancy; 11 1/4-2c. to 12 1/4-2c. for prime; 10 1/2-2c. to 11c. for good; 9c. to 10 1/4-2c. for fair; 7c. to 8 3/4-2c. for inferior; 10 1/2-2c. to 12c. for pea-berry.

RICE.—The market on all grades has advanced about 1-2c. since last report, while domestic Japan has shown an improvement during the past month of

about December 1. Mrs. Rice and the children will continue to reside in Hilo until the spring rather than undertake a residence in the "windy city" at the beginning of the cold weather.

Thomas C. Ridgway, for several years a sojourner in Hilo, where he has been associated with his brother, J. Castle Ridgway, in the practice of law, has written friends that he will not return to Hawaii, having received several advantageous offers to engage in the practice of his profession in Los Angeles.

William Hay, of the Honomu Sugar Company, accompanied by his bride, arrived on the Kinau yesterday.

Manager Wright, of the Volcano Stables and Transportation Co., began moving the bricks for the Hilo jail from the Hackfeld warehouse to the jail site on Tuesday. He says that it is the opinion of some people that the work should begin and fight out the objections of the tenant afterward.

Pete Beamer has arrived in Manila, according to advices received from Phil. Dankey, at one time a resident of Hilo. W. H. Lambert and family are also located there.

Of the sixty-two hundred bunches of bananas shipped on the last trip of the Enterprise, about forty-two hundred bunches passed through the agency of the Waterhouse Trust Co.

J. W. Waldron, for years a book-keeper in the house of F. A. Schaefer & Co., Honolulu, arrived in the Kinau in impaired health. He has been ordered by his physicians to remain at the Volcano House until he is restored to health.

Owing to the danger of yellow fever, Dr. L. S. Thompson, of Waiohinu, who is now in the Burmudas, changed his plans and did not visit the West Indies. He is expected to return at an early date.

Mr. and Mrs. J. Opfergelt were guests at the Volcano House during the week. Mr. Opfergelt leaves the employ of the Waiakea Mill Co. to accept a position as sugar boiler on the Koloa Plantation at Kauai.

C. H. McBride, cashier of the Planters' Experiment Station, is spending a two weeks' vacation on Hawaii.

The Kau Weekly published at Honolulu has suspended pending the cutting of a crop of cane of H. Makino, its proprietor.

F. E. Hime, who comes to H. Hackfeld & Co., as assistant manager, is well known to many of the Hilo people. He was for several years manager of the firm's Mountain View store, and when that changed hands he was transferred to the Kailua store as manager.

There is a Chinese at Waiakea named Ah Yin who makes a business of killing turtles for the family trade and he is making money.

A. McC. Ashley, of the weather bureau, is in town.

## MITCHELL WANTS QUICK DECISION

United States Senator John H. Mitchell wants his case on appeal to the federal supreme court to be advanced and decided as soon as possible.

Senator Mitchell left last evening for Seattle, where he will remain for several days attending to private business and then visit his daughter in Tacoma for a short time.

He has recovered from the effects of his recent accident, when he fell on the dock at the waterfront and sustained a fracture of a rib. His physical vigor has been regained in a remarkable short space of time and to his friends who bade him good-bye he appeared to be in an excellent state of health.

As he stepped aboard the North Coast Limited train he was asked regarding the report recently telegraphed from Washington that he had not asked

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the supreme court to advance his cause on the calendar so as to have an early hearing, the course pursued by United States Senator Burton of Kansas, also under conviction in the federal court.

"The sooner the better," was his brief response to questions as to whether or not he desired an early decision of his appeal. "My case is in the hands of my lawyers, however, and it is the part of a wise client to leave the conduct of his case to their judgment."

Senator Mitchell said that ex-United States Senator John F. Thurston of Nebraska was his senior counsel to whom he looked to determine the wise course with reference to handling the case before the supreme court.

Senator Mitchell intimated that he strongly resents the suggestion that he should resign his office and the inference was that he intends to remain in the position until the higher court has disposed of the appeal.

Congressman J. N. Williamson was asked yesterday regarding the retention of his position in the lower national house and said that he would not be in a hurry to resign, that the supreme court might reverse the decision of the lower court and that in that event he would have done himself an injustice.—Portland Journal.

Indictments for passing counterfeit bills were found by the Federal grand jury against William Moore, in custody here, and J. Duffey, John Rooney and John Shea, arrested in San Francisco.

## R. C. CHURCH REMODELING

(Continued from Page 3.)  
vires of the Hawaiian Legislature.  
FROM AULD SCOTIA.

The steamer Kauai, which arrived here Friday night, had eleven passengers, all of them from Scotland. They were Mr. and Mrs. William Chalmers of Waiakae, who were returning from a four months' trip to Scotland. They brought with them their daughter Jennie, a bonnie lass, who has been in Aberdeenshire for the past three years attending school; Robert and Alex. Fraser have also been visiting their old home in Scotland. Tom and Jack Murray, Mr. Nicholl, James Mackie, James Russell and Chas. Perry are out to try their fortunes in a new country. The Chalmers met J. D. Kennedy in their travels and bring word that he is enjoying every minute of his vacation.

## JAPANESE LIBEL CASE.

Some weeks ago the Japanese Sunday News printed what was considered a libel on Mr. Higashi, the Japanese merchant, and in the same issue of the paper was an article reflecting upon a young Japanese girl. The injured parties swore out warrants against the owner, Okabe, and Temaki, editor of the paper. The case was called for trial in the district court a week ago but as Okabe was not on hand his attorneys, Messrs. Andrews and Irwin, asked for a continuance of one week, which was granted. On Friday the case was again called and Okabe was still absent. His bail was declared forfeited and the editor was called upon to plead. Much to the surprise of counsel he pleaded guilty and was fined one hundred dollars. He pleaded the same to the second charge, but the appeal by counsel for leniency brought the prisoner a fifty-dollar fine. As Okabe had deposited cash bail for himself and his editor an effort was made to have the sheriff accept that deposited for the editor as payment of the fine, but Deputy Sheriff Fetter declined and the man was sent to jail. He spent Saturday with the other misdemeanants cleaning Front street, much to the amusement of members of the Japanese colony with whom, it appears, he is not on the best of terms. Okabe, the owner of the paper, has been in the employ of the Richardsons on Church street for a number of years and has had little experience in newspaper work. It is thought he will order the money deposited by him used to pay the fine of the other fellow.

## ITEMS.

Word was received from Kona of the announcement of the engagement of Miss Eliza Low, sister of Eben Low, to John Maguire, the well known cattle man of Kona and the father of Auditor C. K. Maguire. The wedding will take place on November 23.

The coffee crop in Kona this season is large and the berries are ripening so fast that it is impossible to secure the labor to pick them. The crop is exceptionally thick and the pickers have no trouble to earn two dollars a day. The planters are looking for the labor and will pay good prices.

When the band boys arrived at Paohu last Sunday they found that Supervisor Makuakane had anticipated their visit and prepared a fine luau. After the feast the boys gave an enjoyable concert and later went over to Kapoho where they were well received. The music was enjoyed by a large crowd at both places.

Dr. Milton Rice, for the past seven years a resident and practicing physician in Hilo, has received an offer to enter into partnership with the former dean of the college from which he was graduated and has decided to accept. He has disposed of his practice here to Dr. Henry Hayes. The doctor will locate in Chicago and will leave here